

# RESOURCE INDEMNITY TRUST

A Report Prepared for the  
Legislative Finance Committee  
RIT Subcommittee

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## **PURPOSE**

The purpose of this report is to: 1) provide the background information on the Resource Indemnity Trust (RIT) and the Resource Indemnity Groundwater Assessment (RIGWA) necessary to complete the duties as approved in House Joint Resolution (HJR) 36, and 2) provide a framework to address the scope and process that will be utilized.

The resolution was proposed as a means to address the multiple issues associated with the trust, including:

- Fund utilization in conflict with statute
- Confusing and conflicting laws regarding the flow of interest and taxes
- Lack of formalized plan to address funding shortfalls in the interim
- Multiple committee appropriations oversight

The resolution outlines the framework of and potential outcomes of the interim study. Specifically:

- (1) propose revisions to laws related to the resource indemnity trust;
- (2) include input from the director of the Office of Budget and Program Planning and the directors of state agencies that would be affected by changes to the resource indemnity trust;
- (3) examine funding priorities; and
- (4) examine possible uses of funds related to the resource indemnity trust.<sup>1</sup>

Findings and conclusions of this study must be presented to the Legislative Finance Committee, with a complete report for the 60<sup>th</sup> Legislature.

To meet the terms of the resolution, the Legislative Finance committee established an RIT subcommittee to complete the tasks. Members of the committee are:

- Representative Rick Ripley, Chair
- Representative Rose Buzzas
- Senator Rick Laible
- Senator Don Ryan

## **RIT BACKGROUND INFORMATION**

This report will serve as the foundation of the project by providing the historical background to the RIT and RIGWA, highlighting issues of importance, and setting out the potential study alternatives. Developed in conjunction with this report are fund profiles detailing the fiscal position, utilization, and issues of each of the eleven identified funds that receive RIT interest or taxes.

## **FROM CREATION TO TODAY**

The original 1972 Constitution included Article IX requiring that lands disturbed by the taking of minerals be reclaimed for the benefit of all Montanans. The article did not establish a means or a

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<sup>1</sup> HJR 36, 59<sup>th</sup> Session

funding source to achieve this goal. In 1973, Governor Judge announced in his state of the state address his plan to create a fund for the purpose of reclaiming the disturbed lands. The 1973 Legislature passed HB 97 to create the Resource Indemnity Trust (RIT) and the Resource Indemnity Trust Tax (RITT) to fund the trust. The original statute prohibited the trust principle from being appropriated and expended until the fund reached \$100 million, but allowed for the interest earnings to be appropriated after the fund reached \$10 million.

Prompted by concerns over the perpetuation of the trust, a Constitutional amendment to make the fund permanent was approved by the legislature in 1974, passed public vote and became effective July of 1975. This change added Sections Two and Three of Article IX. Section 2 allows for the RIT to be funded with taxes on extraction of natural resources and Section 3 establishes the trust as permanent. First appropriations of RIT interest were made in 1978 after the fund had achieved a balance of \$10 million.

Historically, the RIT and the RIGWA statutes have changed nearly every biennium. Interest has been re-directed and taxes have been reallocated documenting the shifting priorities of the legislature through time. As new state special revenue funds were created and funded, the funding matrix was readjusted resulting in revenue reductions to other funds. Changes in revenue streams caused shifts in fund utilization. This constant change provides the basis for what is happening with the RIT and related funds today.

Because the history of the RIT and the RIGWA statutes are important to completing the work at hand, a detailed history of legislation is included in the appendix to this document. This includes legislation that affected the disbursement of interest, allocation of taxes, creation of funds and utilization of funds. In addition, the history provides a brief overview of the 1981 Attorney General's opinion that funds could be used to mitigate social and economic impacts of mineral development and the 1989 decision of the Supreme Court that funds are not restricted to the reclamation of land.

Today, the RIT trust, RIGWA taxes, and the related eleven state special revenue funds have a relationship that is tenuous due to cross competition for funds, the use of some funds to subsidize other funds, changes in fund utilization, lack of central oversight, and the continuing debate over appropriate uses of funds. These ongoing issues became the basis for HJR 36 and the reason behind this report.

## **DEFINING THE SCOPE AND PROCESS**

### **SCOPE OF THE PROJECT**

The project scope encompasses the review of the legislative policy regarding the use of RIT interest and RIGWA taxes to determine if this policy is still appropriate or if it needs to change given the history of continual changes and adjustments. This can be done by reviewing the state special revenue funds, obtaining additional information on fund utilization, and establishing priorities within funds. The following is a potential process for the sub-committee to consider.

## **POTENTIAL PROCESS**

### **Look at the funds**

The eleven state special revenue funds that receive RIT related income have been profiled for the purpose of providing background on each fund. The profile documents statute, inception date, fiscal snapshot, revenue sources, expenditures, and issues with the fund. The eleven profiles are in the appendix to this report.

Common issues are raised in the profiles. Some funds are not fiscally sound and rely on transfers from another fund to provide the cash to complete required activities. Other funds provide funding for items that are potentially outside the purpose of the fund. And still other funds are in need of cleanup in statute to clarify the purpose or use of the funds.

The funds can be the starting point of this project. Many of the major issues have been identified in LFC and EQC documents throughout the years. They include:

1. The renewable resources and reclamation and development funds support activities outside the scope of the grant and loan programs. This includes funding to the state library, MSU – Northern, the Water Court, program costs in the Department of Environmental Quality and various programs in the Conservation and Resource Development Division of the Department of Natural Resources and Conservation. Competition for funding could be reduced by establishing funding priorities, clarifying the use of funds and establishing expectations.
2. The Orphan Share fund has become a supplemental funding source for the hazardous waste/CERLA and the environmental quality protection funds. The issue should be reviewed to determine what level of funding is needed for appropriate level of activities funded with these three funds.
3. Statutes require cleanup to reflect what is actually occurring with the fund.

These points are outlined in the profiles found in the appendix.

### **Ask the key questions**

The fund profiles provide basic information. The detail as to what the funds are actually providing for and the results of those investments has not been gathered, and performance has not been measured. In order to fully understand what the funds are being utilized for, a program and budget review should be conducted. This would entail requesting the agencies to answer a series of questions regarding program purpose, goals, target audiences and results. This information would be useful in determining priorities and would potentially identify other issues that the legislature needs to be made aware of.

### **Endorse a work group**

The key stakeholders are the agencies in this process. An option would be to sanction a work group to come together to establish alternative funding mechanisms to reduce the cross competition issues, increase oversight by appropriation committees, and simplify the process. The sub-committee would determine the tasks of the work group and the group would meet between sub-committee meetings to

accomplish these tasks. This group should include both budget and program personnel of the affected agencies to link money and program operations together. As a sanctioned work group public notice would be provided and minutes taken.

## **Devise a plan**

After collecting performance information and hearing from affected parties, the sub-committee could request a plan from the work group as a starting point for decision-making. The plan should address the major points listed in HJR 36 and include the details to execute the plan. The plan would then be provided to the subcommittee for review, debate and revision if necessary. Once adopted, implementation steps such as budgeting and bill drafting would begin.

## **CONCLUSION**

HJR 36 was proposed in order to find potential resolutions to the recurring problems of fund utilization, purpose and appropriations. By reviewing the funds and asking the key questions, the subcommittee has the opportunity to provide resolution to a problem that affects four state agencies, two universities, and a host of state and local governments.